

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

Gain-Sharing Subgroup

August 23, 2005

Immediately Following Executive Committee Meeting

House Hearing Room C
Olympia

AGENDA

- (1) **Update on AGO Opinion**
- (2) **Policy Analysis of Options - Preview**
- (3) **Full Rule of 90**
- (4) **Fiscal Analysis of HB 1324**
- (5) **Trade-off Proposals/Alternative Options**
- (6) **Stakeholder Input**

Subgroup Membership: (*voting members*) Representative Fromhold (chair), Senator Fraser, Senator Mulliken, Representative Crouse, Ms. Banks, Mr. Goeke, Ms. Matheson, Mr. Thompson; (*non-voting members*) Sophia Byrd, Jim Justin, Ken Kanikeberg, John Kvamme, Christopher Liu, Lynn Maier, Leslie Main, Ellie Menzies, Randy Parr, Cassandra de la Rosa.

Stakeholder groups are encouraged to appoint an individual representative from their organization as a non-voting member if interested.

Persons with disabilities needing auxiliary aids or services for purposes of attending or participating in Select Committee on Pension Policy meetings should call (360) 753-9144. TDD 1-800-635-9993

***Elaine M. Banks**
TRS Retirees

Representative Barbara Bailey

Lois Clement
PERS Retirees

Representative Steve Conway

Representative Larry Crouse

***Senator Karen Fraser,**
Vice Chair

***Representative Bill Fromhold,**
Chair

***Leland A. Goeke**
TRS and SERS Employers

***Robert Keller**
PERS Actives

***Sandra J. Matheson,** Director
Department of Retirement Systems

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Victor Moore, Director
Office of Financial Management

Senator Joyce Mulliken

Glenn Olson
PERS Employers

Senator Craig Pridemore

Diane Rae
TRS Actives

J. Pat Thompson
PERS Actives

David Westberg
SERS Actives

*** Executive Committee**

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Select Committee on Pension Policy

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GAIN-SHARING SUBGROUP DRAFT MINUTES

July 19, 2005

The Gain-Sharing Subgroup met in House Hearing Room A, Olympia, Washington on July 19, 2005.

Voting Members:

Representative Fromhold, Chair	Elaine Banks
Senator Fraser	Leland Goeke
Representative Crouse	J. Pat Thompson

Other SCPP member attending:

Lois Clement

Non-Voting Members:

Sophia Byrd	Lynn Maier
Ken Kanikeberg	Randy Parr
Leslie Main	Cassandra de la Rosa

Representative Fromhold, Chair, called the meeting to order at 3:50 PM.

(1) Review of Study Mandate

Bob Baker reviewed the "Study Mandate" and the "Gain-sharing Benefit Trade-off Analysis" chart. Discussion followed.

(2) Need for Legal Opinion - discussion

The members agreed to seek a formal Attorney General's opinion relating to the gain-sharing benefit provisions.

(3) Analysis of HB 1324

Discussion followed on the rule of 90 and what are the next steps.

The following person testified:

Conrad Wold - Teachers for Retirement Equity

(4) Meeting Date and Time

The Gain-sharing Subgroup will meet 8/23/05 immediately following the Executive Committee meeting.

The meeting adjourned at 5:40 PM.

***Elaine M. Banks**
TRS Retirees

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PERS Retirees

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SERS Actives

*** Executive Committee**



WASHINGTON STATE LEGISLATURE
Office of the State Actuary

July 26, 2005

Via Hand Delivery and First Class Mail

Attorney General Rob M. McKenna
P.O. Box 40100
Olympia, Washington 98504-0100

Re: Request for Attorney General Opinion

Dear Attorney General McKenna:

On July 19, 2005 the Executive Committee of the Select Committee on Pension Policy (SCPP) passed a motion to seek a formal Attorney General's Opinion related to the gain-sharing benefit provisions in the Plans 1 and 3 of the Public Employees' Retirement System (PERS), School Employees' Retirement System (SERS) and the Teachers' Retirement System (TRS). Those provisions are located in Chapters 41.31 and 41.31A of the Revised Code of Washington.

My office provides staff services to the SCPP, and the Committee's motion specified that I should, on behalf of the Executive Committee, specifically frame the question to be answered in the formal opinion. To that end, I present you with the following question:

Do the provisions in RCW 41.31.030, RCW 41.31A.020(4), RCW 41.31A.030(5), and RCW 41.31A.040(5) containing "non-contractual rights clauses" negate any contractual obligation of the state to provide gain-sharing benefits in the future?

The SCPP seeks your formal written opinion as the highest and best legal advice available to it on a question that has significant legal and financial ramifications for the Washington state retirement systems, and ultimately for the taxpayers at large. Chapter 370, Section 6, Subsection 10, Laws of 2005 requires the SCPP to study specified options available to the Legislature for addressing the liability associated with future gain-sharing benefits. The Legislature mandated that the SCPP report to it by no later than December 15, 2005. Because the specified options for the study include a possible repeal or modification of the gain-sharing Chapters, it is necessary to assess the associated legal ramifications as quickly as possible so as to proceed with the study and present it to the fiscal committees in a timely manner.

Attorney General Rob McKenna
July 26, 2005
Page 2

Please do not hesitate to contact me if you need further background information as you prepare your response to this question. On behalf of the Executive Committee of the SCPP, I thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew M. Smith", with a stylized flourish at the end.

Matthew M. Smith
State Actuary

cc: Representative Fromhold, Chair
Senator Fraser, Vice-chair



RECEIVED

AUG 9 2005

Office of
The State Actuary

Rob McKenna

ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

August 8, 2005

Matthew M. Smith
State Actuary
P. O. Box 40914
Olympia, WA 98504-0914

Dear Mr. Smith:

This is to acknowledge your recent letter requesting an opinion on whether statutes containing "non-contractual rights clauses" negate contractual obligations of the state to provide gain-sharing benefits in the future. We will take your question under advisement and will contact you when we have more information to provide.

We have determined to process your request as a formal opinion, which means it will be subjected to peer review and submitted to the Attorney General for approval to be published as an official opinion. Our goal is to process formal opinions within 90 days, which includes time for interested parties to submit briefing or information before we begin drafting. We estimate that we will complete this opinion by the end of October. If something happens which requires us to change this timeline, we will contact you again. In the meantime, if you want to check on the progress of the opinion or have additional information to supply, please contact me in writing, by telephone, or by e-mail (jamesp@atg.wa.gov).

Sincerely,

JAMES K. PHARRIS
Senior Assistant Attorney General
(360) 664-3027

:pmd



Select Committee on Pension Policy

Gain-Sharing Subgroup

Policy Analysis of Options - Preview

(August 2, 2005)

Issue

Gain-sharing was originally proposed as a way to provide periodic non-contractual benefit increases to public employees, school employees, and teachers by tapping the "extraordinary investment gains" earned by the retirement funds. The Office of the State Actuary has recently established a method to determine the cost of these benefits. In lieu of recognizing the cost of future gain-sharing benefits, the legislature has, per Chapter 370, Section 6, Subsection 10, Laws of 2005, directed the Select Committee on Pension Policy (SCPP) to ...

"... study the options available to the legislature for addressing the liability associated with future gain-sharing benefits. These options may include, but shall not be limited to, repealing, delaying, or suspending the gain-sharing provisions in law; making gain-sharing discretionary; or replacing gain-sharing benefits with other benefits such as plan choice, employer defined contributions, retirement eligibility enhancements, and post-retirement adjustments. The select committee on pension policy shall report the findings and recommendations of its study to the legislative fiscal committees by no later than December 15, 2005."

Policy Analysis of Options

The statutory list of options for dealing with the liability associated with future gain-sharing each contain distinct policy implications. The following section will provide a preview of each of those options and their policy implications.

Repealing

Repealing gain-sharing would eliminate the liability associated with future gain-sharing benefits, but would open up questions regarding the contractual nature of the benefits themselves. Policies related to contractual versus non-contractual benefits are, for the most part, speculative. While there are some

clues as to the legal weight of a non-contractual clause (Strunk v. Oregon) there is no Washington court test of the issue.

There are three benefits in Washington's retirement systems and plans that contain a non-contractual right clause:

- PERS 1 and TRS 1 Uniform COLA benefits;
- PERS 1 and TRS 1 Post-retirement employment benefits; and
- PERS 1, TRS 1, PERS 3, TRS 3, SERS 3 gain-sharing benefits.

The two policy sides of the contractual/non-contractual coin relate to the rights of members to existing benefits. The legal foundation of public pensions in Washington is that benefits in place at the time of hire are a contractual obligation of the employer and a right of the employee. A member may have a benefit taken away, but only if the employer replaces that benefit with another benefit of comparable value. On the other hand, if a benefit is non-contractual, the employer (legislature) may amend or repeal the benefit as they see fit.

A repeal of gain-sharing in the Plans 3 would also open up questions concerning members' reliance on future gain-sharing when deciding to transfer from Plan 2 to Plan 3 (or to join PERS 3 at the time of hire). A key sub-issue is whether the statutory non-contractual right clause provides adequate notice for affected plan members.

Delaying

Delaying the recognition of the cost of a gain-sharing event until after the event occurs has significant policy consequences. It is the current statutory policy to fund material benefits over the members' working lives. This policy results in the pre-funding of benefits so that investment interest earned on the member and employer contributions can help pay for the future benefit distributions and avoids the inequitable transfer of gain-sharing costs between successive generations of taxpayers. Delaying the funding of a benefit until after it occurs would be contrary to existing funding policy and considerably more expensive as there would be less investment earnings to help pay for the benefit.

Suspending

Suspending the granting and funding of gain-sharing until some specific date in the future would address the liability of any gain-sharing event that would have occurred during the suspension period. This has different policy implications than delaying funding because the funding of gain-sharing would

occur or resume after a specific date rather than after a gain-sharing event. While this is somewhat in conflict with the policy to pre-fund benefits, unlike delaying, it does not treat gain-sharing as a pay-as-you-go or post-funded benefit.

Make Discretionary

Making gain-sharing discretionary with the legislature would address future liabilities only if the legislature did not grant the gain-sharing distributions. This would, in essence, return the legislature to a position of granting ad hoc COLA improvements for PERS 1 and TRS 1 retirees. It would also be the first step in granting ad hoc benefit improvements for Plan 3 members. In terms of policy, this would be in conflict with the policy to pre-fund benefits and benefit improvements over the working lives of the members.

Replace

The policy implications within any replacement or trade-off proposal deal with contractual rights of benefits whose statutory basis includes the “non-contractual right” clause, the nature of the benefits being traded, and the value of a certain benefit compared to an uncertain benefit. An informal advice request from the Attorney General’s Office (AG) in 2004 on these subjects resulted in the following:

1. There isn’t a clear answer whether gain-sharing is a vested, contractual right. It might not be a vested, contractual right because of the reservation clause.
2. If the court believes gain-sharing is a vested, contractual right it is more likely than not that a court would find that the right has not been substantially impaired because members and beneficiaries were “put on notice” that the legislature may amend or repeal gain-sharing in the future (via the reservation clause).
3. With regard to comparable benefits, if gain-sharing were repealed and replaced by another benefit, courts favor comparable benefits that are similar to the old benefit.
4. Under the context of gain-sharing, it is reasonable to adjust the value of an uncertain and unpredictable benefit when determining the value of a comparable replacement that has little or no uncertainty.

Benefit for Benefit

This informal advice frames any trade-off proposal by maintaining that any benefit trade-off should remain within the scope of the original benefit. Since gain-sharing is used to boost the annual increase amount for calculating PERS 1 and TRS 1 retirees' uniform COLA and to provide distributions to PERS 3, TRS 3, and SERS 3 individual member accounts, any alternative benefit(s) would ideally be similarly related.

Enhancing the uniform increase amount, expanding the qualification requirements to receive alternative minimum benefits, indexing those alternative minimum benefits by 3 percent per year, and lowering the age eligibility requirements for receipt of the Uniform COLA are all related to the protection of retirees' purchasing power and would thus appear to be appropriate trade-off alternatives.

Changing the age and service retirement eligibility provisions in the Plans 2/3 and offering a plan choice for new SERS and TRS members are not similar to the original Plan 3 gain-sharing benefit. The annual distributions for SERS 3 member accounts, on the other hand, are similar to the original Plan 3 gain-sharing benefit and would appear to be an appropriate trade-off.

Certainty for Uncertainty

In addition, by placing a higher value on certainty, an alternate benefit may be less costly though equal in perceived value. Gain-sharing is a benefit that can be given a long-term expected value, but because of the variability of investment markets, it cannot be given a specific value in the near-term with a high degree of certainty. As a result, for those desiring a benefit with near-term certainty, part of the value of a long-term uncertain benefit may be traded to acquire that certainty.

In exchange for repealing gain-sharing, last year's Purchasing Power Subgroup and SSCP proposed to enhance select Plan 1 and Plan 2/3 benefit provisions by an amount approximately half the long-term cost of gain-sharing, thus giving greater value to a certain benefit and lesser value to an uncertain benefit. However, if future gain-sharing benefits are deemed contractual, any replacement benefits of lower value could be struck down by the courts.

Select Committee on Pension Policy

Gain-Sharing Subgroup

Rule of 90 for Unreduced Retirement

(August 10, 2005)

Rule of 90 for Unreduced Retirement - Immediate Effective Date Benefit Improvements and Rate Increases Effective in 2006

Costs (in Millions):	Estimated Fiscal Impact							
	Rule of 90 All Service				Rule of 90 Prospective Only			
	PERS	TRS	SERS	Total	PERS	TRS	SERS	Total
Increase in Contribution Rates								
Employee (Plan 2 Only)	0.73%	1.00%	0.57%		0.27%	0.53%	0.22%	
Employer	0.73%	1.00%	0.57%		0.27%	0.53%	0.22%	
2006-2007								
State:								
General Fund	\$7.1	\$24.3	\$2.6	\$34.0	\$3.1	\$14.1	\$1.1	\$18.3
Non-General Fund	<u>\$14.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$14.0</u>	<u>\$6.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$6.0</u>
Total State	\$21.1	\$24.3	\$2.6	\$48.0	\$9.1	\$14.1	\$1.1	\$24.3
Local Government	\$19.2	\$13.4	\$3.9	\$36.5	\$8.2	\$7.7	\$1.7	\$17.6
Total Employer	\$40.3	\$37.7	\$6.5	\$84.5	\$17.3	\$21.8	\$2.8	\$41.9
Total Employee	\$31.2	\$4.2	\$2.2	\$37.6	\$12.7	\$2.2	\$0.9	\$15.8
2007-2009								
State:								
General Fund	\$17.3	\$52.4	\$6.0	\$75.7	\$8.0	\$31.6	\$2.9	\$42.5
Non-General Fund	<u>\$34.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$34.0</u>	<u>\$15.6</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$15.6</u>
Total State	\$51.3	\$52.4	\$6.0	\$109.7	\$23.6	\$31.6	\$2.9	\$58.1
Local Government	\$46.7	\$26.2	\$9.0	\$81.9	\$21.4	\$15.8	\$4.3	\$41.5
Total Employer	\$98.0	\$78.6	\$15.0	\$191.6	\$45.0	\$47.4	\$7.2	\$99.6
Total Employee	\$76.2	\$8.4	\$4.9	\$89.5	\$32.4	\$4.4	\$1.9	\$38.7
2006-2031								
State:								
General Fund	\$267.8	\$926.2	\$90.4	\$1,284.4	\$195.6	\$740.0	\$70.5	\$1,006.1
Non-General Fund	<u>\$524.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$524.0</u>	<u>\$380.6</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$380.6</u>
Total State	\$791.8	\$926.2	\$90.4	\$1,808.4	\$576.2	\$740.0	\$70.5	\$1,386.7
Local Government	\$719.7	\$464.1	\$135.7	\$1,319.5	\$522.6	\$370.1	\$105.5	\$998.2
Total Employer	\$1,511.5	\$1,390.3	\$226.1	\$3,127.9	\$1,098.8	\$1,110.1	\$176.0	\$2,384.9
Total Employee	\$1,002.8	\$56.6	\$34.5	\$1,093.9	\$635.4	\$30.2	\$13.3	\$678.9

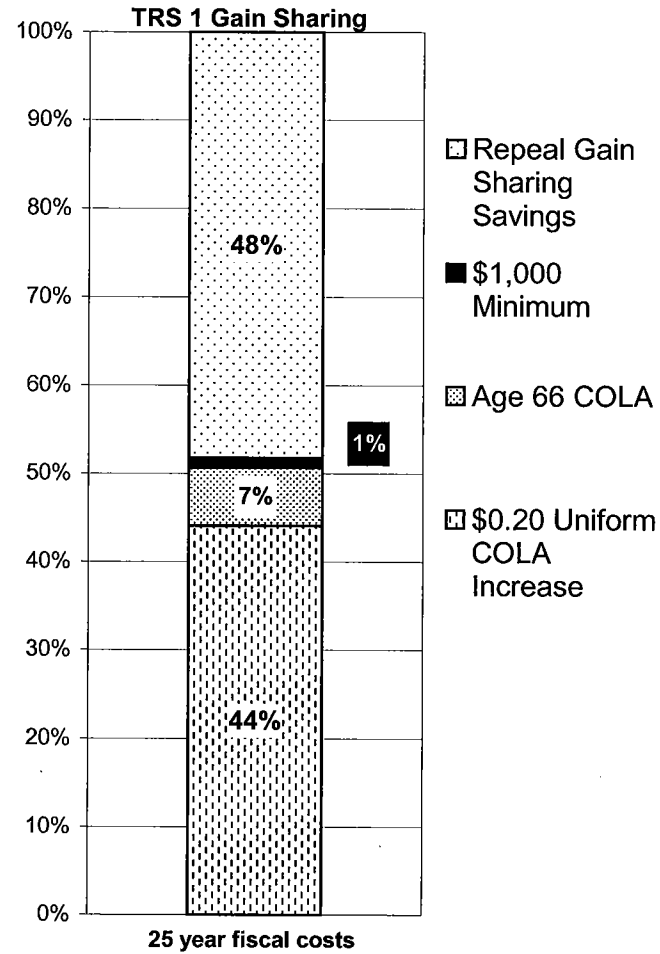
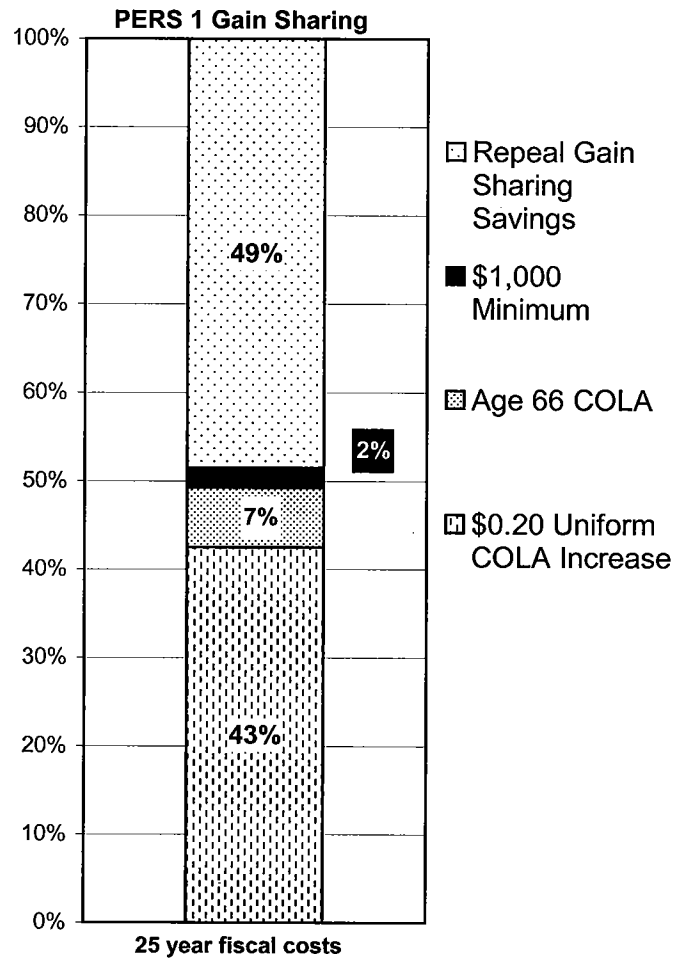
Note: All data based on preliminary 2004 valuation

**Rule of 90 for Unreduced Retirement - Three-Year Delay in Effective Date
Benefit Improvements and Rate Increases Effective in 2009**

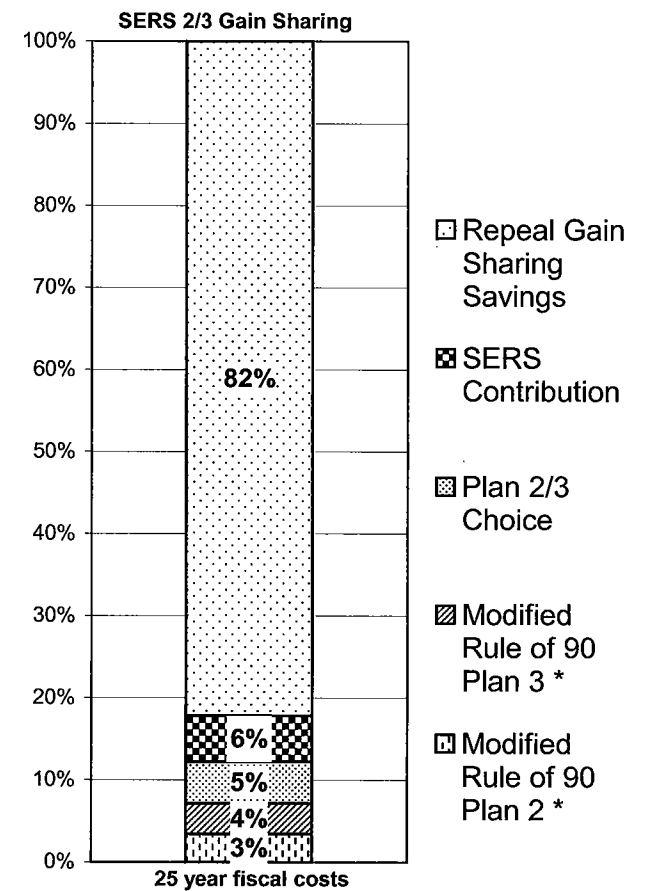
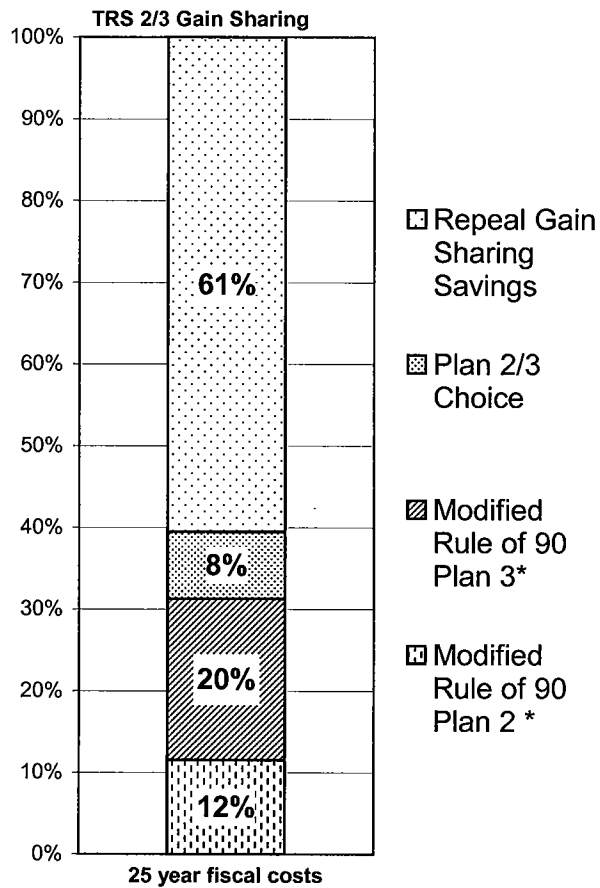
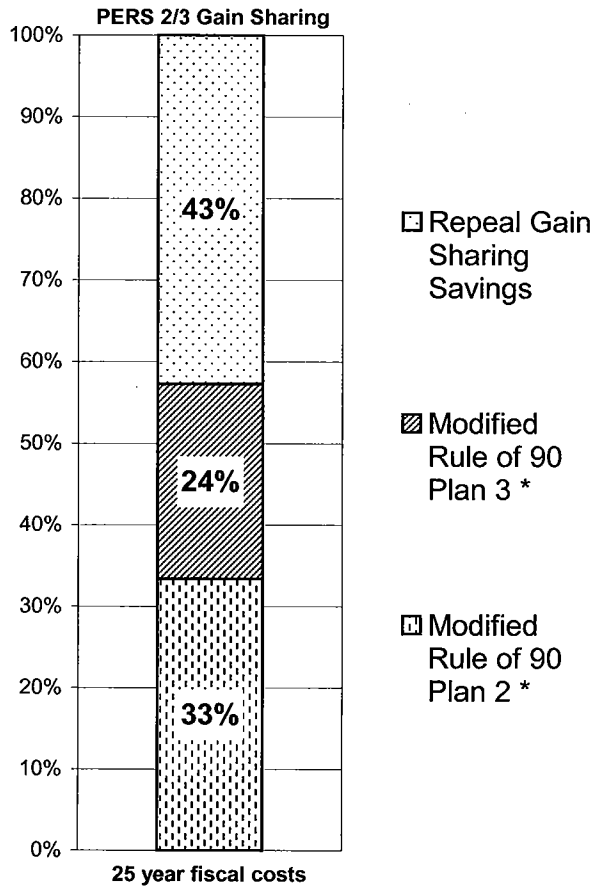
Costs (in Millions):	Estimated Fiscal Impact							
	Rule of 90 All Service				Rule of 90 Prospective Only			
	PERS	TRS	SERS	Total	PERS	TRS	SERS	Total
Increase in Contribution Rates								
Employee (Plan 2 Only)	0.94%	1.32%	0.76%		0.27%	0.53%	0.22%	
Employer	0.94%	1.32%	0.76%		0.27%	0.53%	0.22%	
2009-2011								
State:								
General Fund	\$20.2	\$69.2	\$7.1	\$96.5	\$8.2	\$35.0	\$3.1	\$46.3
Non-General Fund	\$39.5	\$0.0	\$0.0	\$39.5	\$16.1	\$0.0	\$0.0	\$16.1
Total State	\$59.7	\$69.2	\$7.1	\$136.0	\$24.3	\$35.0	\$3.1	\$62.4
Local Government	\$54.2	\$34.6	\$10.7	\$99.5	\$22.0	\$17.5	\$4.5	\$44.0
Total Employer	\$113.9	\$103.8	\$17.8	\$235.5	\$46.3	\$52.5	\$7.6	\$106.4
Total Employee	\$88.9	\$10.6	\$5.7	\$105.2	\$32.1	\$4.3	\$1.7	\$38.1
2011-2013								
State:								
General Fund	\$22.2	\$71.5	\$7.6	\$101.3	\$10.1	\$39.1	\$3.7	\$52.9
Non-General Fund	\$43.5	\$0.0	\$0.0	\$43.5	\$19.5	\$0.0	\$0.0	\$19.5
Total State	\$65.7	\$71.5	\$7.6	\$144.8	\$29.6	\$39.1	\$3.7	\$72.4
Local Government	\$59.7	\$35.7	\$11.4	\$106.8	\$26.8	\$19.5	\$5.4	\$51.7
Total Employer	\$125.4	\$107.2	\$19.0	\$251.6	\$56.4	\$58.6	\$9.1	\$124.1
Total Employee	\$96.9	\$9.7	\$5.7	\$112.3	\$37.7	\$3.9	\$1.6	\$43.2
2009-2034								
State:								
General Fund	\$323.2	\$1,161.9	\$109.4	\$1,594.5	\$231.6	\$868.0	\$83.5	\$1,183.1
Non-General Fund	\$631.6	\$0.0	\$0.0	\$631.6	\$450.7	\$0.0	\$0.0	\$450.7
Total State	\$954.8	\$1,161.9	\$109.4	\$2,226.1	\$682.3	\$868.0	\$83.5	\$1,633.8
Local Government	\$867.1	\$580.2	\$163.8	\$1,611.1	\$619.1	\$433.4	\$124.9	\$1,177.4
Total Employer	\$1,821.9	\$1,742.1	\$273.2	\$3,837.2	\$1,301.4	\$1,301.4	\$208.4	\$2,811.2
Total Employee	\$1,182.3	\$58.5	\$36.7	\$1,277.5	\$724.7	\$23.7	\$10.7	\$759.1

Note: All data based on preliminary 2004 valuation

Select Committee on Pension Policy Fiscal Analysis of HB 1324 - Plan 1

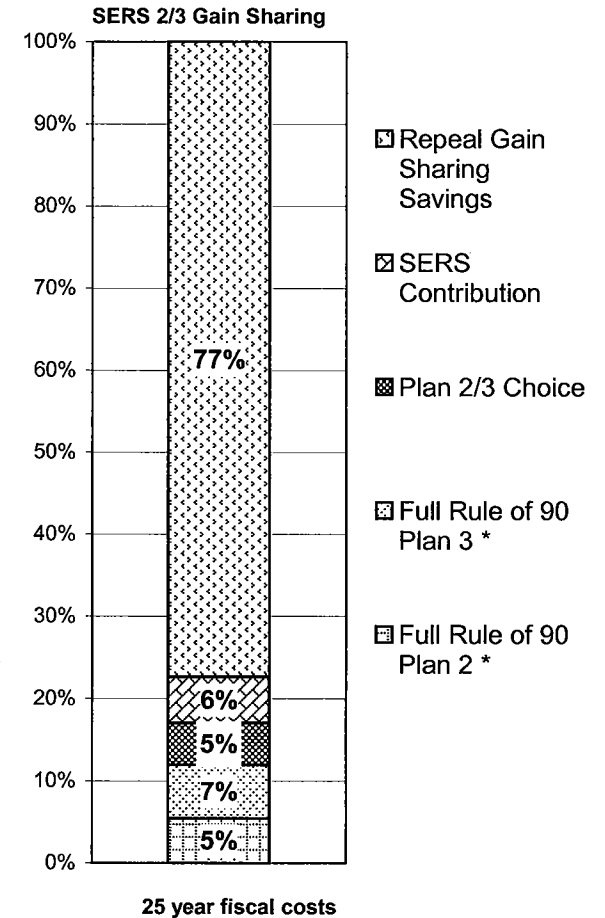
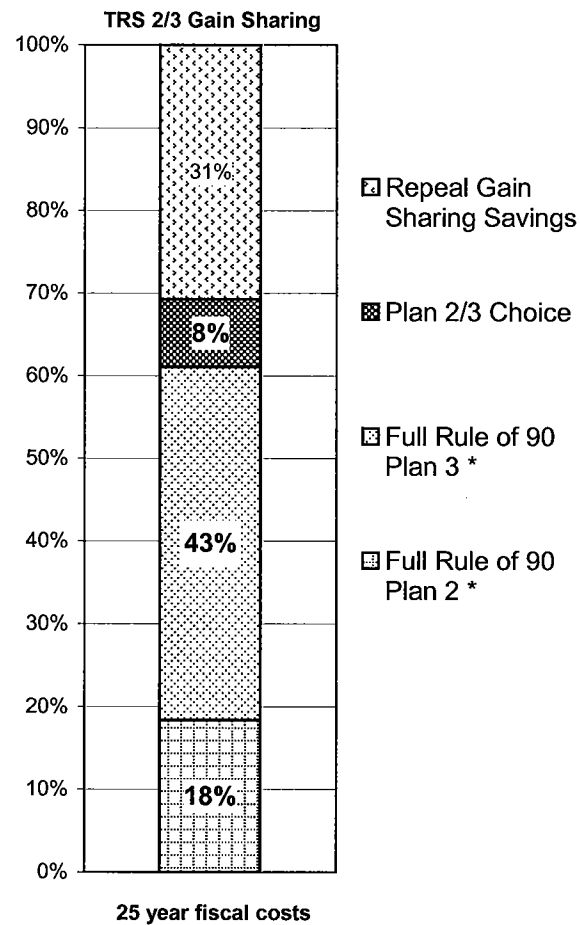
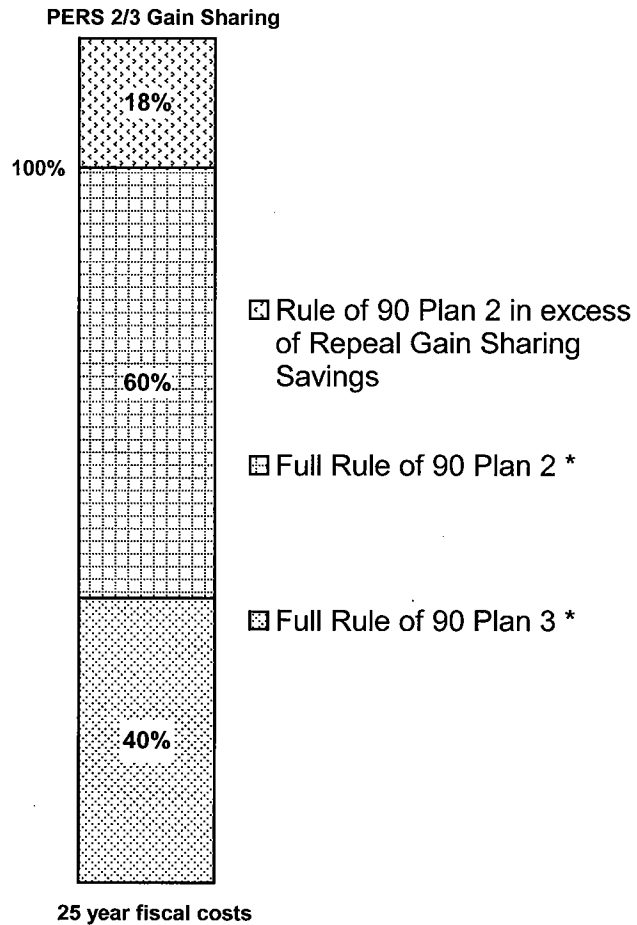


Select Committee on Pension Policy Fiscal Analysis of HB 1324 - Plan 2/3



* Rule of 90 for prospective service only, minimum age 60

Select Committee on Pension Policy Fiscal Analysis of HB 1324 - Plan 2/3



*Rule of 90 for all service, no minimum age

Gain-sharing Benefit Trade-off Analysis

Benefit Recipient

Benefit / Proposal	PERS1 Active	PERS1 Retired	PERS1 <66	TRS1 Active	TRS1 Retired	TRS1 <66	PERS3 Active	PERS3 Retired	PERS New	TRS3 Active	TRS3 Retired	TRS New	SERS3 Active	SERS3 Retired	SERS New	PERS2 Active	TRS2 Active	SERS2 Active	PERS2 New	TRS2 New	SERS2 New
Plan 1 Gain-sharing																					
20¢ increase in the "Annual Increase Amount"																					
\$1,000 Alt. Minimum 20 years of service, 25 years retired																					
Index \$1,000 Alt. Minimum Benefits 3% per year																					
Age 66 COLA Eligibility																					
Plan 3 Gain-sharing																					
Modified Rule-of-90																					
Plan 2/3 Choice																					
Annual SERS Employer Contribution																					



All Members
Receive



Some
Members
Receive



Very Few
Members
Receive

Select Committee on Pension Policy
Gain-Sharing Subgroup
Trade-off Proposals
Alternative Options
(August 4, 2005)

Issue

A select number of gain-sharing trade-offs have been proposed. There are several other alternatives to addressing future gain-sharing liabilities the committee may want to consider beyond those already proposed. The following is a list of some of those options.

Alternative Options

1. Repeal Gain-sharing and provide an option to return to the Plans 2 for those who transferred into the Plans 3.

This would recognize that the presence of gain-sharing was an incentive for Plan 2 members to transfer to Plan 3 and repealing gain-sharing should be accompanied by some remedy.

2. Increase the thresholds for a gain-sharing event.

- Lengthen the look-back period from four years to eight years (eliminates about one-third of the liability);
- Lengthen the look-back period from four years to eight years and raise the rate of return threshold from 10 percent to 12 percent (eliminates about two-thirds of the liability);
- Lengthen the frequency from every two years to every four years (eliminates about one-half of the liability) or any combination thereof.

This would lessen the liability associated with future gain-sharing while retaining the basic gain-sharing benefit structure.

3. Replace the Plan 3 gain-sharing benefit with an annual dollar per year of service employer-contribution into individual Plan 3 member accounts.

This would retain the current Plan 3 gain-sharing benefit structure, similar to the Plan 1 Uniform COLA enhancement trade-off proposal. A sub-option

within this proposal would be to provide the distribution to all Plan 3 members going forward or limit it to only those eligible for gain-sharing on the effective date of the act.

4. Replace the Plan 3 gain-sharing benefit with an employer-defined contribution in which the employer would contribute a fixed percent of pay into a notional member account for which the members would be guaranteed a fixed interest credit (i.e., 5.5 percent).

This would be funded similar to a defined benefit plan, where the employer would be responsible for the investment risk and the defined employer contribution would not go into an individual Plan 3 member account but rather a member reserve under the Plan 2/3 Commingled Trust Fund. The value of the member account would be available upon separation from service as a lump sum or optional life annuity.

Burkhart, Kelly

From: Mark A Jones [arelus@centurytel.net]
Date: Saturday, June 18, 2005 9:55 AM
To: Office State Actuary, WA
Subject: Proposed Retirement Changes

In the February/March 2005 issue of the Retirement Outlook there was an article regarding "Legislative proposals approved by the SCPP". Among the significant proposals recommended for the 2005 legislative session was an item relating to Plan 2 and 3 benefit changes, specifically:

- An unreduced retirement benefit for eligible PERS, TRS and SERS members when the sum of service credit plus age equals 90 (member must be at least age 60, with at least five years of service credit).

I cannot find the status of this proposal anywhere within the SCPP web site or the legislative web pages. I would appreciate any information you can provide regarding this proposal. Did it fail to gain any support? Is it still being considered? If not, what are the chances it will be proposed in a later session?

Please provide further information on the status of this proposal. Thanks.

Mark Jones

6/21/2005

May 11, 2004

Senator Karen Fraser
404 Legislative Building
PO Box 40422
Olympia, WA 98504-0422

Brian Pickering
10603 180th ST SE
Snohomish, WA 98296

Re: Select Committee on Pension Policy -- HB 1044

Dear Senator Fraser:

I am writing you in your capacity as Chairperson of the Select Committee on Pension Policy. My wife and I are members of PERS 3. I began my career at Department of Revenue in 1989 and my wife began working at Snohomish County Juvenile Court in 1996. We were both members of PERS 2 but opted for PERS 3 in 2002.

The decision for us to join PERS 3 was difficult. Both plans had plusses and minuses. However, when we weighed all of the criteria, including gain sharing, PERS 3 was our choice. Now, as I am sure you are aware "*...a delay in the recognition of the cost of future gain-sharing benefits until the 2007-2009 biennium*" has become law through HB 1044.

A delay in recognition of the benefit is an accounting fiction and simple chicanery. It only took three years for the legislature to break the agreement it had with PERS 3 members by *delay in the recognition of the cost of future gain-sharing benefits*. My wife and I are quite unhappy with this gimmick. Gain sharing tipped the scales in our minds when we opted for PERS 3. Had we known then what we know now we never would have changed retirement plans.

For some reason I thought Washington State was better than this. I certainly have done everything I can to uphold the integrity and reputation of my employer. Maybe I was wrong. Maybe we are nothing more than a City of San Diego with regard to retirement administration. Call it what you may; delaying the recognition of gain sharing amounts to breach of contract.

I would appreciate it if your staff would inform me of any hearings your committee conducts that the public can attend. I would like every opportunity to admonish this shameful legislation. Also, if drafts or initial versions of the gain sharing report are available to the public prior to December 15, 2005 please provide them to me.

Sincerely,


Brian Pickering